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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,378	08/23/2006	Siegfried Ellmann	3823	8394

7590  
Striker Striker & Stenby  
103 East Neck road  
Huntington, NY 11743

EXAMINER
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SMITH, JASON C

ART UNIT	PAPER NUMBER
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3617

MAIL DATE	DELIVERY MODE
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08/18/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,378	<b>Applicant(s)</b> ELLMANN ET AL.	
	<b>Examiner</b> Jason C. Smith	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-25 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 08/23/2006 is being considered by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 6, 9, 12-13, 20, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata et al. (5,467,718).** Shibata et al. a magnet arrangement for a magnetic levitation vehicle comprising at least one magnetic pole (2) consisting of a core (14) and a winding (12), a control circuit (9) connected to the winding and a power supply unit (25) for supplying at least the electrical energy required for the control circuit, characterized in that it is designed as an autonomous modular unit (A) integrating within itself the magnetic pole, the control circuit and the power supply unit; **[claim 6]** characterized in that the power supply unit comprises at least one pick-up coil (19) for a contact-less inductive transmission of energy; **[claim 9]** characterized in that it is configured as a support magnet (7) and/or a guidance magnet (2); **[claim 12]** characterized in that the power supply unit comprises at least one buffer battery (10)

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integrated in the modular unit; **[claim 13]** characterized in that it is designed as a module comprising the support magnet (7) and the guidance magnet (2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2, 3, 4, 10, 11, 14, 15, 16, 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata et al. (5,467,718).** Shibata et al. discloses the magnet arrangement and a voltage converter (42) comprised of a magnet pole, whose windings are electrically connected in series and connected with the control circuit. However, Shibata does not disclose a plurality of poles. It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have a plurality of magnetic poles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. The motivation for doing so would have been to maintain the gap constant during the ride of the vehicle; [claims 2 and 14] the specification of Shibata may not show a magnetic "back box", however the control circuit and power supply unit are included in the vehicle. This is sufficient enough to represent a "back box". The motivation for doing so would have been to include all the wires in the vehicle.

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**6. Claims 5 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata et al. (5,467,718) in view of van den Bergh et al. (2004/0123766).**

Shibata et al. discloses the magnetic arrangement set forth above, but does not disclose a winding of a linear generator. However, van den Bergh et al. does disclose a winding (32) of a linear generator. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide a winding of a linear generator disclosed in Shibata et al. in view of the teaching of van den Bergh et al. The motivation for doing so would have been to regulate the electric current.

**7. Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata et al. (5,467,718) in view of Svensson (6,450,103).** Shibata et al.

discloses the magnetic arrangement set forth above, but does not disclose a current collector. However, Svensson does disclose a current collector (0020). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide a current collector disclosed in Shibata et al. in view of the teaching of Svensson. The motivation for doing so would have been to generate electric current.

***Response to Arguments***

1. Applicant's arguments filed 05/22/2009 have been fully considered but they are not persuasive. It appears that the applicant's arguments are more limiting than that of the claims. Specifically, the applicant states that the art of record fails to show an autonomous modular unit. However, the claims are so broad that the entire vehicle can be construed as an "autonomous modular unit". Applicant's arguments seem to focus on

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the less cabling this system requires, but the claims only suggest broad terminology about back boxes and modular units. More structure should be included to show how the cabling is reduced in this system.

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Allowable Subject Matter***

1. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason C. Smith whose telephone number is (571) 270-5225. The examiner can normally be reached on M- F, 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/  
Supervisory Patent Examiner, Art Unit 3617

/Jason C Smith/  
Examiner, Art Unit 3617